

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7662

BILL NUMBER: HB 1758

DATE PREPARED: Mar 31, 1999

BILL AMENDED: Mar 30, 1999

SUBJECT: Prepaid funeral services.

FISCAL ANALYST: Bernadette Bartlett

PHONE NUMBER: 232-9586

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill makes various amendments to provisions concerning the payment of funeral expenses, burial services, or merchandise in advance of need. The bill specifies certain requirements for contracts for prepaid services or merchandise and contracts relating to trusts or escrows established to hold consideration for services or merchandise.

Effective Date: July 1, 1999.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) Under current law, the seller of a contract must pay a fee into the Preneed Consumer Protection Fund. The fee is \$2.50 for contracts having a value of less than \$1,000 and \$5 for contracts having a value of \$1,000 or more. Under the proposal the fee would be paid to a trustee or escrow agent who would forward the fee to be deposited into the fund. The fee of \$2.50 would be paid for contracts having a value of at least \$500 and less than \$1,500 and \$10 for contracts having a value of \$1,500 or more.) The fund currently has a cap of \$1 million. The proposal would increase this cap to \$1.5 million.

The State Board of Funeral and Cemetery Service may assess a fine of not more than \$10,000 for violations. The impact of this provision will depend on the number of violations that occur.

Sellers of prepaid funeral contracts who violate the law commit a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the State General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the State General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the State General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Professional Licensing Agency.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Michelle Smith, Fiscal Officer, and Charles Hear, Legal Counsel, Professional Licensing Agency, (317) 232-2510 and (317) 232-5954 respectively.